

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, January 3, 2007
10:00 a.m.
Indian Wells, California
&
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: December 22, 2006

RE: Closed Session of the Board on January 3, 2007

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. AG LAND MANAGEMENT, 06-R2D5-405
2. BRINDERSON, 03-R4D1-4687 THROUGH 4689
3. CROSSFLOW LOGISTICS, INC., 05-R3D3-0098
4. CUNNINGHAM MOVING & STORAGE CORP., 04-R1D1-2842 THROUGH 2847
5. DONALD P. DICK AIR CONDITIONING, 04-R2D5-1656 AND 1657
6. EAGLE ROOFING, 05-R2D4-4091 THROUGH 4093
7. EUREKA CATTLE CO., 04-R2D5-2683

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8. JOHN LAING HOMES, 04-R3D1-194 AND 195
9. K & J GRAPHICS, INC., 05-R6D1-404 THROUGH 406
10. NATIONAL CEMENT COMPANY, 04-R5D2-1696 AND 1697
11. OPPORTUNITY FOR INDEPENDENCE, 04-R1D5-1413
12. RON'S FLEET SERVICE, 04-R1D5-186
13. TILLER CONSTRUCTORS PARTNERSHIP, INC., 04-R4D2-1185
14. UNITED TOWING SERVICES, 04-R3D3-2566
15. VALLEY EXCAVATING, 04-R2D5-2071 AND 2072
16. W.B. ELMER & COMPANY, 04-R1D5-3260

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABC SUPPLY CO. INC., 05-R1D2-2190
2. ALVARADO HOSPITAL, 06-R3D2-3410
3. AMERICAN GARMENT FINISHING, 05-R3D5-2980 THROUGH 2984
4. AMERICAN RIM SUPPLY, INC., 04-R6D2-3221 THROUGH-3227
5. AMRO FABRICATING CORP., 04-R4D4-3045 AND 3046
6. BLUE DIAMOND GROWERS, 05-R2D1-1866
7. BRUTOCO ENGINEERING & CONSTRUCTION, 04-R6D2-771
8. CAL CRUSH, 04-R5D1-3426
9. CALEXICO HIGH SCHOOL, 06-R3D2-2010
10. CALIFORNIA BLOW PIPE, 04-R4D4-2794 THROUGH 2799

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11. CAL SNAP & TAB CORP., 04-R4D4-2792 AND 2793
12. CAZA DRILLING (CALIFORNIA) INC., 02-R4D3-4495
13. CHEVRON REFINERY, 05-R3D7-2515 AND 2516
14. CLAIM JUMPER, 05-R3D1-4099 THROUGH 4102
15. CONSTELLATION WINES U.S. dba TURNER ROAD VINTNERS, 06-R2D7-3132 AND 3133
16. CREATIVE NAIL DESIGN, 04-R3D2-1137 AND 1138
17. DALEY'S DRYWALL AND TAPING, INC., 04-R1D2-2852 AND 2853
18. DALTON ENTERPRISES, INC., 05-R3D1-713 THROUGH 715
19. DECORE-ATIVE SPECIALTIES, 06-R4D4-2682 AND 3683
20. DELICOR, INCORPORATED, 03-R1D4-1961 AND 1962
21. DOLE FRESH FLOWERS, 04-R4D1-1364 AND 1365
22. DRESICK FARMS, INC., 05-R2D5-3297
23. EVERGREEN ENVIRONMENTAL SERVICES, 04-R2D5-1527
24. EXCALIBER EXTRUSIONS, 05-R3D1-020 AND 021
25. FAGGART BUICK GMC, 04-R2D5-1528
26. GOLDEN STATE BORING, 05-R5D2-160
27. GUIDED DISCOVERIES, INC., 06-R3D5-752
28. HATHAWAY DINWIDDIE CONSTRUCTION CO., 05-R1D2-3538
29. HERITAGE CONTRACTING SERVICES, 05-R1D2-863
30. HOWARD S. WRIGHT CONSTRUCTION CO., 06-R4D1-1098 THROUGH 1101
31. HUGO NEU-PROLER COMPANY, 02-R3D5-2879 AND 2880
32. IDEAL IRONWORKS, INC., 04-R6D2-2827 THROUGH 2837

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33. INTER-CON SECURITY, 04-R2D4-2677
34. JRN CONSTRUCTION, 05-R4D3-1482
35. JUNNI JAMES A JICKAIN dba PACIFIC ISLAND ROOFING SYSTEMS AND ROOFERS BEST, 01-R4D3-2470 THROUGH 2473
36. KELLY SERVICES, INC., 05-R2D2-2212
37. LABOR FINDERS, 05-R3D2-3496
38. LIGHT TOWN HOUSE, INC. dba KOREAN BBQ LIGHT HOUSE, 05-R3D1-3938
39. LYONS PLASTERING INC., 03-R4D2-4377 THROUGH 4381
40. MANUEL URIBE'S PLUMBING, 06-R4D1-2325
41. MARCHEM TECHNOLOGIES, LLC, 04-R3D7-2202
42. MICHAEL HEAVEY CONSTRUCTION, 05-R1D1-2369 AND 2370
43. NATIONAL STEEL & SHIP BUILDING CO. (NASSCO), 05-R6D2-2065 AND 2066
44. NATIONAL STEEL & SHIP BUILDING CO. (NASSCO), 05-R6D2-2067 AND 2068
45. NATIONAL STEEL & SHIP BUILDING CO. (NASSCO), 05-R6D2-2273 AND 2274
46. OLD TIME FURNISHINGS, 04-R4D2-2772
47. PS BUSINESS INTERIOR, 06-R3D2-1427
48. PACIFIC ROCK, INC., 04-R5D2-3486 THROUGH 3488
49. PUREFISHING SEVENSTRAND TACKLE, 04-R3D5-4540 THROUGH 4556
50. REGIONAL HOUSING DEVELOPMENT INC., 05-R4D1-1352 AND 1353
51. ROMERO CONSTRUCTION, 06-R3D2-512 AND 513
52. SACRAMENTO VALLEY CABINETS, INC., 06-R6D1-1221

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- 53. SANTEE DAIRIES, INC., 04-R4D4-2950 THROUGH 2952
- 54. SAPUTO CHEESE, 04-R2D5-2343
- 55. SCHRAM CONSTRUCTION, INC., 05-R1D1-1264 THROUGH 1267
- 56. SENSIENT DEHYDRATED FLAVORS, CO., 05-R2D4-4387 THROUGH 4389
- 57. SHIPPERS IMPERIAL, INC., 04-R2D4-4034 THROUGH 4036
- 58. SOLVAY DRAKA, INC., 05-R4D2-3734 AND 3735
- 59. STAFFMARK, INC., 05-R3D5-363 AND 364
- 60. STEVE P. RADOS, INC., 06-R4D3-276
- 61. ST. GEORGE WAREHOUSE, 06-R3D5-572
- 62. STUCCO WORKS, INC., 05-R2D1-4364
- 63. SUKUT CONSTRUCTION, INC., 04-R4D4-3405
- 64. SUKUT CONSTRUCTION, INC., 05-R3D1-3670
- 65. SUNRISE ASSISTED LIVING, 05-R2D1-952 AND 953
- 66. TL FABRICATIONS, 04-R3D1-2556 THROUGH 2559
- 67. TANDEM WEST GROUP, 04-R3D3-839 AND 840
- 68. TAYLOR CONTRACTING SERVICES, INC., 04-R3D5-2374
- 69. TIBBAN TANKS, INC., 04-R3D3-793 THROUGH 796
- 70. TOM BENGARD RANCH, INC., 05-R1D2-770
- 71. UNION PACIFIC RAILROAD, 05-R2D1-302
- 72. UNIVERSAL HARDWOOD, 06-R4D1-2328 AND 2329
- 73. VILLAGE CONCEPTS, INC., 06-R2D4-120
- 74. VOLT TEMPORARY SERVICES GROUP, 06-R2D4-1274
- 75. WATSON ROOFING, INC., 06-R2D1-880

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76. WESTCON MICROTUNNELING INC., 04-R5D2-2811 AND 06-R5D2-4670

77. WEST COVINA POLICE DEPT, 05-R4D4-2864

78. WINNING COLORS, INC., 04-R4D2-2771

79. YELLOW TRANSPORTATION CO., 05-R1D4-607

ORDERS DISMISSING APPEALS:

1. ADOLFO MAYORGA CONSTRUCTION, 04-R3D5-034

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. ANDERSON ROOFING, 06-R2D1-9230

2. CINQUINI FARMS, 06-R2D3-9228

3. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242

4. NATIONAL DIVERSIFIED SALES, 06-R2D5-9243

5. RECYCLING SOLUTIONS dba PALLETMASTERS, 06-R6D1-9244 AND 9245

6. WEST COAST LINEN & SUPPLY, 06-R2D5-9237 THROUGH 9240

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. FIBERINE G.V.M.R., INC., 06-R3D5-9154

2. GANA STEEL, 04-R3D1-1608-1609

3. JOHN COOK DRYWALL dba BVC CONSTRUCTION, 06-R2D4-9133

4. KOOSHAREN CORP. dba SELECT PERSONNEL SERVICES, 04-R1D4-855 AND 856

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DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. AIRGUIDE PUBLICATIONS, INC., 04-R3D5-1956
2. DONALD B. MURPHY CONTRACTORS, INC., 04-R2D1-1940
3. FYDAQ, 06-R3D1-9124
4. M. S. CLARK ROOFING, 04-R2D1-1564

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ACTION: Returned from December 20, 2006 Board meeting for further discussion, review and action.
2. SAM AND ED ABUATIEH dba STEREO 1, 04-R4D4-2441 AND 2442
3. AC FRAMERS INC., 03-R2D3-3475
4. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
8. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
9. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
13. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
14. GLASS PAK, 03-R2D2-0750 AND 0751

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15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HELPMATES STAFFING SERVICES, 05-R3D3-2239
18. HUSSMAN CORPORATION, 03-R3D1-2939
19. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
20. IRBY CONSTRUCTION, 03-R3D3-2728
21. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
22. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
23. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
24. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
25. LONG BEACH CITY COLLEGE, 03-R3D5-2747
26. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
27. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
28. McDONALDS #10660, 03-R1D3-4116 & 4117
29. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
30. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
31. O & M INDUSTRIES, 04-R1D5-1597
32. PMR RACE CARS, 03-R3D3-1824 & 1825
33. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
34. RII PLASTERING INC., 02-R3D1-2679
35. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
36. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305

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37. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
38. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
39. THE GENE SCHICK COMPANY, 05-R1D4-0937
40. TRIO METAL, 03-R4D4-0316 & 0317
41. UNITED AIRLINES, 00-R1D5-2844
42. WESTERN DOOR, 01-R3D1-2827
43. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018
44. X-ACT FINISH & TRIM, INC., 06-R3D1-9114

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.